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Index #: Unassigned-1395161

Date:

Time:

Kappell, Jeremy

WHEC-TV, LLC
Hubbard Broadcasting, Inc.
Reingold, Richard

Total Fees Paid: \$0.00

Employee:

State of New York

MONROE COUNTY CLERK'S OFFICE
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ADAM J BELLO

MONROE COUNTY CLERK



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

JEREMY KAPPELL

Plaintiff(s),

-against-

WHEC-TV, LLC, HUBBARD BROADCASTING, INC., and
RICHARD REINGOLD,

Defendant(s).

Index No.

Summons

Date Index No. Purchased: April 15, 2019

To the above named Defendant(s)

WHEC-TV, LLC, HUBBARD BROADCASTING, INC., and RICHARD REINGOLD
191 East Avenue
Rochester, New York 14604

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is place of incidents/occurrences
which is Plaintiff's former place of employment.

Dated: Long Island City, New York

April 15, 2019

RICOTTA & MARKS, P.C.

by 

Thomas Ricotta

Attorneys for Plaintiff

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE-----X
JEREMY KAPPELL,**Index No.:**

Plaintiff,

COMPLAINT

-against-

Jury Trial DemandedWHEC-TV, LLC, HUBBARD BROADCASTING,
INC., and RICHARD REINGOLD,Defendants.
-----X

Plaintiff, JEREMY KAPPELL, by and through his attorneys, Ricotta & Marks, P.C., alleges, upon knowledge as to himself and his own actions, and upon information and belief as to all other matters, as follows:

JURISDICTION AND VENUE

1. This is a civil action based upon breach of contract, defamation, intentional infliction of emotional distress, negligent infliction of emotional distress, as well as on any other cause of action which can be inferred from the facts set forth herein.
2. Venue is proper pursuant to CPLR § 503(a).

PARTIES

3. At all times hereinafter mentioned, Plaintiff Jeremy Kappell ("Kappell"), was and is a resident of the County of Monroe, State of New York.

4. At all times hereinafter mentioned, Defendant WHEC-TV, LLC (“WHEC”) is a corporation with a principal place of business in Monroe County, New York, located at 191 East Avenue, Rochester, New York 14604.
5. At all times hereinafter mentioned, Defendant Hubbard Broadcasting, Inc. (“Hubbard”) is a corporation that owns and operates WHEC-TV, LLC.
6. At all times hereinafter mentioned, Richard Reingold (“Reingold”) was the General Manager of WHEC-TV and Kappell’s supervisor. Reingold had the authority to make employment decisions relating to Kappell and aided and abetted in the unlawful conduct outlined herein.

BACKGROUND FACTS

7. In August 2017, Kappell was recruited to interview for a Chief Meteorologist position with WHEC. As a result of that three-day interview with Casey Clark (“Clark”), then News Director, and Derrick Dalton (“Dalton”), then General Manager, Kappell was hired as Chief Meteorologist for WHEC.
8. In accepting this position, Kappell uprooted his family and moved from out of state to Monroe County and, in October 2017, assumed the role as Chief Meteorologist of WHEC.
9. More specifically, on October 23, 2017, Kappell and WHEC-TV entered into a three (3) year employment contract for Kappell to work as Chief Meteorologist/On-Air Talent.
10. Moreover, pursuant to paragraph ten (10) of that contract, WHEC-TV could terminate Kappell’s employment, under the contract, prior to the completion of same, only where

cause was shown to do so. Examples of cause included fraud, gross misconduct, gross insubordination, theft, embezzlement, or violation of law or WHEC policies.

11. Immediately, and throughout his employment with WHEC, Kappell performed his job in an exemplary manner, bringing and effectuating highly successful concepts and campaigns for WHEC, including:

- Launching the City's first ten (10) day forecast;
- Spearheading the roll out of a new "First Alert Weather" branding campaign; and,
- Launching a new weather app for the station, which included "user generated content" which initiated a first in the market ability for the viewer to directly send photos and videos into the app to be then utilized by WHEC's weather graphics operating system to be shown on air in real time.

12. These early successes and innovations also manifested themselves in the ratings, with WHEC achieving highly successful ratings periods for both the months of November 2017 and February 2018 (which constitute two of the three most important ratings in a given year).

13. Dalton was promoted at or around the February 2018 ratings period and, in July 2018, Richard Reingold ("Reingold") was named the General Manager of WHEC.

14. Kappell continued to evidence exemplary performance in his position with WHEC, bringing back a Live Doppler Weather Radar to Rochester, and convincing, through a series of presentations, that Hubbard should invest \$75,000 to refurbish and rebrand existing radar equipment in order to get said equipment operational.

15. In August 2018, Kappell successfully hosted a thirty (30) minute weather special dedicated to explaining and demonstrating the benefits of a local Doppler radar compared to one operated remotely from a National Weather Service office in another part of the state.
16. During this entire time, Kappell had no performance issues, received no notice of any deficiencies in his employment or discipline regarding his performance, which included his providing on-air meteorology reports for WHEC's nightly news. As such, Kappell earned the trust of the WHEC-TV viewers as both a meteorologist and a local television personality.
17. On January 4, 2019, during a WHEC-TV broadcast, Kappell suffered from linguistic error. That day, and the day thereafter, no one at WHEC-TV took issue with the error or noted any issues with the broadcast. Of equal importance, on the day of the broadcast, WHEC-TV did not feel the need to address Kappell's linguistic error.
18. On or about January 6, 2019, it was alleged by members of the public and the Mayor of Rochester, Lovely A. Warren, that Kappell's linguistic error was, in fact a racial slur, seemingly impugning, without basis in fact, intent on Kappell to have actually uttered such a slur. A similar error has been made by numerous other on-air personalities both before and since this January 4, 2019 broadcast.
19. On January 6, 2019, prior to interviewing Kappell to question him about the incident, and prior to conducting any real investigation into the situation, Kappell's employment with WHEC-TV was terminated. In fact, the only meeting Kappell had prior to being notified of his termination was one where Reingold was accusatory toward Kappell, did not let Kappell speak in any meaningful manner, and advised him that an investigation would

- occur. However, Kappell was then summarily terminated without any actual investigation occurring (as evidenced by the fact that Kappell was never questioned).
20. There existed no cause for this termination, as defined by Kappell's contract and, as such, this termination constitutes a breach of contract.
21. Moreover, on January 6, 2019, Reingold released a statement on behalf of WHEC-TV, wherein he attributed a racial slur to Kappell, attributing a non-existent intent to Kappell that Reingold could not have reasonably had knowledge of and representing, to the world, that Kappell had intentionally uttered a racial slur. In doing so, Reingold defamed Kappell, as he knew or should have known that his statement, particularly as it related to Kappell's linguistic error and intent, was false.
22. On January 6, 2019, Kappell's employment was terminated. As a result of Defendants' conduct, Kappell has suffered lost wages and benefits, has suffered severe emotional distress as well as physical manifestations of same, and has had his prospects for reemployment severely damaged by Defendants' callous and reckless conduct.

CLAIMS FOR RELIEF

AS AND FOR A FIRST CAUSE OF ACTION (Breach of Contract)

23. Plaintiff repeats, reiterates, and realleges each and every allegation made in the above paragraphs 1 through 22 of this complaint.
24. Plaintiff and Defendants entered into a valid contract, effective October 23, 2017.
25. Plaintiff performed under the contract.
26. Defendants prematurely terminated the contract in violation of the terms and conditions of the contract, prior to completion of said contract.

27. As a result of Defendants' breach of contract, Plaintiff has been damaged in an amount to be determined at trial.

AS AND FOR A SECOND CAUSE OF ACTION
(Defamation Per Se)

28. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs 1 through 27 of this complaint.
29. Based upon the foregoing, Defendant Reingold has made false and defamatory statements of fact about Plaintiff that were published to third parties by Defendants. The false and defamatory statements issued by Defendant injure or prejudice Plaintiff in his business, profession or trade carried on by Plaintiff and falsely accuse Plaintiff of intentionally uttering a racial epithet. As such, the statements are defamatory per se.
30. As a result of Defendants' conduct, Plaintiff has been damaged in an amount to be determined at trial.

AS AND FOR A THIRD CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

31. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs 1 through 30 of this complaint.
32. Based upon the foregoing conduct, Defendant Reingold, as an agent of Defendant WHEC-TV, and acting on their behalf, in terminating Kappell's contract and publicly condemning Kappell in a manner that would lead a reasonable person to conclude that Defendants conducted a thorough investigation and determined that Kappell had intentionally uttered a racial epithet (when they had in fact not done so), engaged in extreme and outrageous conduct that intended to and/or had a substantial probability of

causing Kappell severe emotional distress, and did, in fact, cause Kappell severe emotional distress.

33. As a result of Defendants' conduct, Plaintiff has been damaged in an amount to be determined at trial.

AS AND FOR A FOURTH CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)

34. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs 1 through 33 of this complaint.
35. Based upon the foregoing conduct, Defendant Reingold, as an agent of Defendant WHEC-TV, and acting on their behalf, in terminating Kappell's contract and publicly condemning Kappell in a manner that would lead a reasonable person to conclude that Defendants conducted a thorough investigation and determined that Kappell had intentionally uttered a racial epithet (when they had in fact not done so), engaged in conduct that they knew or should have known had a substantial probability of causing Kappell severe emotional distress, and did, in fact, cause Kappell severe emotional distress.
36. As a result of Defendants' conduct, Plaintiff has been damaged in an amount to be determined at trial.

WHEREFORE, Plaintiff demands judgment against the Defendants, in an amount to be determined at trial, plus interest, compensatory damages, punitive damages, attorney fees, and costs together with any other relief the court deems just and proper. Plaintiff demands a trial by jury.

Dated: Long Island City, New York
April 15, 2019

Respectfully submitted,

Ricotta & Marks, P.C.
Attorneys for Plaintiff
31-10 37th Avenue, Suite 401
Long Island City, New York 11101
(347) 464-8694



Thomas Ricotta